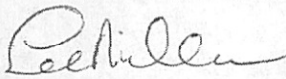


MEMORANDUM

TO: Advisory Council to the PACT Board of Directors

FROM: Lee Miller 
Legal Advisor to the Office of State Treasurer

SUBJECT: Request to Waive PACT Rule 7.01(4)
Substitution of Beneficiaries

PACT CONTRACT: Thomas H. Devenish, Purchaser
Robert C. Devenish and Samuel T. Devenish, Beneficiaries
PACT Contract Nos. [REDACTED] 6146 and [REDACTED] 5472

DATE: May 16, 2014

Mr. Thomas H. Devenish, Purchaser of the above-referenced PACT Contracts, requests relief from the operation of PACT Rule 7.01(4) which provides that for one beneficiary to be substituted for another beneficiary, there must be at least thirty-two (32) semester hours of tuition remaining on the PACT Contract for which the beneficiary substitution is requested. PACT Rule 10.00 provides that "Any aggrieved Contract Purchaser desiring to petition for relief from the Rules may do so by submitting a written petition to the Board." Mr. Devenish's request to the Director of College Savings Programs to transfer PACT benefits from one PACT Contract to another was denied and this appeal follows.

Facts

In 1990, Mr. Devenish purchased a PACT Contract for his son Robert; and, in 1993, he purchased a PACT Contract for his son Samuel. He has advised PACT that Robert has utilized all but twenty-one semester hours allocated under his PACT Contract and that he will not be returning to school. PACT records also indicate that twenty-one semester hours remain under Robert's contract.

Samuel is currently a student at The University of the South in Sewanee, TN, and is utilizing the benefits under his PACT Contract. Mr. Devenish requests that Samuel be substituted as the beneficiary on Robert's PACT Contract and be allowed to utilize the remaining twenty-one hours.

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Discussion

Rule 7.01 governs the substitution of beneficiaries under PACT Contracts and provides that beneficiaries may be substituted once during the life of a PACT Contract if certain mandatory requirements are met. Rule 7.01(4) provides that "There must be at least thirty-two (32) semester hours of tuition remaining" before a beneficiary can be substituted. Because twenty-one semester hours of tuition remain on Robert's PACT Contract, this contract fails to meet the requirement for substituting a beneficiary.

Recommendation

After considering the facts presented by Mr. Devenish and information in the PACT program records pertaining to the referenced PACT Contracts, it is clear that a mandatory requirement of Rule 7.01 for the substitution of beneficiaries has not been met. Consequently, it is recommended to the Advisory Council that Mr. Devenish's petition for relief from Rule 7.01 be denied.